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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 SALVADOR LIBUTAN, an Individual,
10 Plaintiff,

11 vs.

12 MGM GRAND, A CORPORATION,
13 DOES 1-50, inclusive and ROE
14 CORPORATIONS 1-50, inclusive,
15 Defendant.

CASE NO.: 2:20-cv-00304-RFB-NJK

**STIPULATION AND ORDER TO STAY
DISCOVERY
(FIRST REQUEST)**

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17 Plaintiff SALVADOR LIBUTAN and Defendant MGM GRAND, A CORPORATION,
18 by and through their counsel of record, hereby stipulate and agree to stay discovery pending the
19 outcome of the Early Neutral Evaluation scheduled for October 28, 2020 or pending the Court's
20 ruling on Defendant's Motion to Dismiss (ECF No. 8), which seeks full and/or partial dismissal
21 of each of the causes of action asserted in Plaintiff's Complaint, which ever occurs first.

22 In assessing a request to stay discovery, the Court decides whether it is necessary to
23 speed the parties along in discovery or whether it is appropriate to delay discovery and spare
24 the parties the associated expense. *Tradebay, LLC v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev.
25 2011). To make this assessment, the Court takes a "preliminary peek" at the merits of the
26 purportedly dispositive motion, though, importantly, this "preliminary peek" does not prejudice
27 the outcome of the motion, it merely evaluates whether an order staying discovery is warranted.
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1 *Id.* The Motion to Dismiss in this instant action is the type warranting a stay of discovery as
2 Defendant has sought full dismissal and/or partial dismissal on all five causes of action asserted
3 by Plaintiff. Moreover, no discovery is required to make a determination on the Motion to
4 Dismiss and the Motion to Dismiss raises threshold legal issues (*e.g.*, statute of limitations and
5 failure to exhaust administrative remedies). Accordingly, requiring the parties to conduct
6 discovery on claims that may be dismissed and may not be curable by amendment would cause
7 an unnecessary expense on the parties and potentially log the Court's docket with unnecessary
8 discovery disputes on these claims. Additionally, because Defendant moved to dismiss the
9 claims, Plaintiff has not been apprised of which factual allegations Defendant intends to admit,
10 and which Defendant intends to deny. Nor has Plaintiff been apprised of the defenses
11 Defendant intends to assert. Plaintiff believes this would limit his ability to conduct full
12 discovery while the Motion to Dismiss is pending. Plaintiff disputes the arguments made in
13 Defendant's Motion to Dismiss but agrees that the motion is of the type warranting a stay of
14 discovery.

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1 In light of the foregoing, the parties request a stay of discovery until a decision on
2 Defendant's Motion to Dismiss is issued. The parties further stipulate and agree to submit their
3 Proposed Discovery Plan and Scheduling Order within ten (10) calendar days of the conclusion
4 of the Early Neutral Evaluation or a decision on Defendant's Motion to Dismiss, whichever
5 comes first.
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7 DATED this 23rd day of September, 2020. DATED this 23rd day of September, 2020.
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9 HKM EMPLOYMENT ATTORNEYS

MGM GRAND HOTEL, LLC

10 /s/ Jenny L. Foley

/s/ Kelly R. Kichline

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14 *Attorney for Plaintiff*
15 *Salvador Libutan*

Attorney for Defendant
MGM Grand Hotel, LLC

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18 **ORDER**

19 IT IS SO ORDERED:
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22 RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

23 DATED this 24th day of September, 2020.
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